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12406/81
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Richard FINOCCHIO
Serial No. : 10/770,892
Filing Date : February 2, 2004
For : PLAYER KEY FOR AN INSTANT-WIN LOTTERY
TICKET AND METHOD FOR VALIDATING SAME
Examiner : Benjamin LAYNO
Group Art Unit : 3711

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

SIR:

Applicants respectfully petition the Commissioner pursuant to 37 C.F.R. § 1.181(a) to withdraw the erroneous holding of abandonment in the above-captioned application.

Applicants received a "Notice of Abandonment" dated August 23, 2007 which states that the above-captioned "application is abandoned in view of Applicant's failure to timely file a proper reply to the Office letter mailed on 28 November 2006."

This statement is in error in view of the following facts:

A Final-Final Office Action mailed September 11, 2006 was received by the undersigned Attorney for Applicant. The Office Action set a three-month response period expiring December 11, 2006.

On November 13, 2006, Applicant's Attorney mailed to the Patent Office a Transmittal Letter, a Response under 37 CFR §1.116, an Affidavit under 37 CFR § 1.132, an Information Disclosure Statement (a copy of which is attached).

An Advisory Action mailed November 28, 2006 was received by the undersigned Attorney for Applicant.

On December 14, 2006, the Patent Office received a Notice of Appeal mailed by the Applicant's attorney on December 11, 2006. The due date for filing the appeal brief was two months from the receipt of the Notice in the Patent Office, *i.e.*, Feb. 14, 2007. *See* MPEP 1205.01.

On July 16, 2007, Applicant's Attorney mailed to the Patent Office a Request for Continued Examination and an Amendment, including a Request for Extension of Time of five months. Thus, the extended due date for the response period was July 16, 2007, July 14, 2007 being a Saturday. The Extension Request indicated a valid deposit account from which to deduct the five-month extension fee. Both the Request for Continued Examination (which included the Request for Extension of Time) and the Amendment had a certificate of mailing dated July 16, 2007 and were signed by Applicant's Attorney. A postcard listing the Request for Continued Examination, Amendment, Extension Request and Deposit Account Number, and bearing a date stamp of receipt dated July 19, 2007 was received from the Patent Office.

Copies of the Request for Continued Examination/Extension Request, Amendment and post card receipt are enclosed herewith.

In light of the above, it is respectfully submitted that a timely response to the Office letter of 28 November 2006 was filed. It is therefore respectfully requested that the Notice of Abandonment be withdrawn and the application returned to the Examiner for further action.

A favorable decision on this Petition to Withdraw the Holding of Abandonment is respectfully requested.

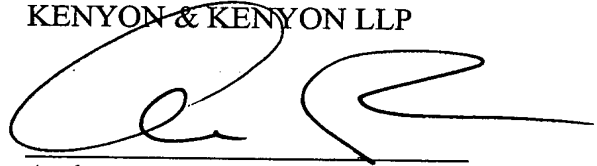
If the above Petition to Withdraw Holding of Abandonment is denied, in the alternative, Applicant hereby petitions to revive the above-identified patent application under 37 C.F.R. 1.137(b). Applicant had a good-faith belief that a timely response was made. Accordingly, any abandonment that occurred was entirely unintentional. Moreover, for substantially the same reason, the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional.

It is believed that no fee is necessary in connection with this Petition. However, should a fee be required, the Commissioner is authorized to charge Deposit Account No. 11-0600. This Petition is submitted in duplicate.

Respectfully submitted,
KENYON & KENYON LLP

Date: September 4, 2007

By:



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